

HOUSE BILL No. 1668

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-28-13; IC 20-28-14.

Synopsis: Teacher performance and peer assistance programs. Requires the department of education to develop a pilot program for school corporations that includes: (1) periodic evaluation of teachers using a performance rating system; and (2) a career ladder for teachers. Provides for the development of peer assistance and professional development programs for teachers.

Effective: July 1, 2007.

Behning

January 23, 2007, read first time and referred to Committee on Education.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1668

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 20-28-13 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]:

4 **Chapter 13. Teacher Evaluation, Compensation, and**
5 **Assignment**

6 **Sec. 1. As used in this chapter, "achievement rating" refers to**
7 **the rating given to a teacher under section 7(c)(1) or 8(b)(1) of this**
8 **chapter.**

9 **Sec. 2. As used in this chapter, "advanced career teacher"**
10 **means a certificated employee:**

11 **(1) with not less than two (2) years' experience as a career**
12 **teacher; and**

13 **(2) who received:**

14 **(A) an achievement rating of advanced; and**

15 **(B) a professional practice rating of distinguished;**

16 **when the employee was last evaluated as a career teacher.**

17 **Sec. 3. As used in this chapter, "apprentice teacher" means a**

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certificated employee with an initial standard license.

Sec. 4. As used in this chapter, "career teacher" means a certificated employee:

(1) with not less than three (3) years' experience as an apprentice teacher;

(2) who holds a master's degree; and

(3) who received:

(A) an achievement rating of not less than proficient; and

(B) a professional practice rating of not less than proficient;

when the employee was last evaluated as an apprentice teacher.

Sec. 5. As used in this chapter, "distinguished career teacher" means a certificated employee:

(1) with not less than two (2) years' experience as a career teacher;

(2) who has been certified by National Board for Professional Teaching Standards; and

(3) who received:

(A) an achievement rating of advanced; and

(B) a professional practice rating of distinguished;

when the employee was last evaluated as a career teacher.

Sec. 6. As used in this chapter, "professional practice rating" refers to the rating given to a teacher under section 7(c)(2) or 8(b)(2) of this chapter.

Sec. 7. (a) IC 20-28-11-3 does not apply to an evaluation under this section.

(b) Except as provided in sections 9 and 10 of this chapter, an individual who teaches in grade 3 through grade 8 and an individual who teaches in a core subject in secondary grades that is the subject of an ISTEP assessment shall be evaluated one (1) time every three (3) years by the individual's principal.

(c) Evaluations under this section must be based upon the following criteria:

(1) Fifty percent (50%) upon a running average of three (3) years of student assessment results aggregated to the teacher level for students taught by the teacher. Based upon the average annual student academic growth, the teacher shall receive a rating of:

(A) advanced, if the average results show more than one (1) year's academic growth;

(B) proficient, if the average results show one (1) year's

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academic growth; or

(C) unsatisfactory, if the average results show less than one (1) year's academic growth.

Scores of students who have received less than one (1) full year of instruction from the teacher shall be weighted based upon the proportion of the school year the student was in the teacher's classroom. For teachers with multiple results, the rating shall be based upon the average of the results. However, a teacher can receive a rating of proficient or above only if all the results indicate achievement of at least one (1) year's academic growth.

(2) Fifty percent (50%) upon a professional practice rating scale that is behaviorally anchored and based upon clearly defined research based professional standards and measurement rubrics, with strong emphasis on standards based instruction and data driven decision making. Ratings shall be prepared by the teacher's supervisor based upon observations by an advanced or distinguished teacher and information from the teacher regarding the teacher's own professional development. The professional practice rating scale must include observations of the following domains, each of which must be rated separately and summarized in an overall rating of distinguished, proficient, basic, or unsatisfactory:

(A) Planning and preparation, including, at a minimum, demonstration of knowledge of content and pedagogy and assessment of student learning so that assessments are used to improve student learning.

(B) Classroom environment, including, at a minimum, establishment of a culture for learning.

(C) Instruction, including, at a minimum, communicating clearly and accurately and engaging students in learning.

(D) Professional responsibilities, including, at a minimum, reflecting on teaching, communicating with families, and growing and developing professionally.

(d) The department shall develop a professional practice rating scale under subsection (c)(2) that includes procedures for first year teachers to be evaluated on not more than the minimal elements of each domain specified under subsection (c)(2). School corporations shall use either:

(1) the professional practice rating scale developed under this section; or

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(2) a locally developed professional practice rating scale that:

(A) is approved by the state superintendent; and

(B) measures the domains set forth in subsection (c)(2).

Sec. 8. (a) Except as provided in sections 9 and 10 of this chapter, a teacher to whom section 7 of this chapter does not apply shall be evaluated one (1) time every three (3) years by the teacher's supervisor.

(b) Evaluations under this section must be based upon the following criteria:

(1) Fifty percent (50%) upon empirical student achievement goals developed jointly by the teacher and the teacher's supervisor. A teacher's performance under this subdivision shall be rated as advanced, proficient, or unsatisfactory.

(2) Fifty percent (50%) upon a professional practice rating scale that is behaviorally anchored and based upon clearly defined research based professional standards and measurement rubrics, with strong emphasis on standards based instruction and data driven decision making. Ratings shall be prepared by the teacher's supervisor based on observations by an advanced career teacher or distinguished career teacher and information from the teacher regarding the teacher's own professional development. The rating scale must include observations of the following domains, each of which shall be rated separately and summarized in an overall rating of distinguished, proficient, basic, or unsatisfactory:

(A) Planning and preparation, including, at a minimum, demonstration of knowledge of content and pedagogy and assessment of student learning so that assessments are used to improve student learning.

(B) Classroom environment, including, at a minimum, establishment of a culture for learning.

(C) Instruction, including, at a minimum, communicating clearly and accurately and engaging students in learning.

(D) Professional responsibilities, including, at a minimum, reflecting on teaching, communicating with families, and growing and developing professionally.

(c) The department shall develop a professional practice rating scale under subsection (b)(2) that includes procedures for first year teachers to be evaluated on no more than the minimal elements of each domain specified under subsection (b)(2). School corporations shall use either:

(1) the professional practice rating scale developed under this

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section; or

(2) a locally developed professional practice rating scale that:

(A) is approved by the state superintendent; and

(B) measures the domains set forth in subsection (b)(2).

Sec. 9. An advanced career teacher or distinguished career teacher shall be evaluated under section 7 or 8 of this chapter at least one (1) time every five (5) years.

Sec. 10. An apprentice teacher shall be evaluated under section 7 or 8 of this chapter at least one (1) time each year.

Sec. 11. Before implementing sections 7 through 10 of this chapter, a school corporation shall provide all certificated employees with at least ten (10) hours of professional development on the elements of professional practice assessments.

Sec. 12. (a) Except as provided under sections 13 and 14 of this chapter, a school corporation shall pay each certificated employee a salary for each school year under a compensation system consisting of a base salary and service increments under this section.

(b) Teachers shall be categorized according to the career ladder levels in subsection (d). The base salary and service increments for each level shall be determined for each school corporation under a collective bargaining agreement between the school corporation and the exclusive representative under IC 20-29, subject to the following concerning the base salary for each level on the career ladder under subsection (d):

(1) The base salary for the career teacher level must be at least thirty percent (30%) higher than the salary for the highest service increment at the apprentice teacher level.

(2) The base salary for the advanced career teacher level must be at least fifteen percent (15%) higher than the salary for the highest service increment at the career teacher level.

(3) The base salary at the distinguished career teacher level must be at least ten percent (10%) higher than the salary for the highest service increment at the advanced career teacher level.

(c) A base salary described in subsection (b) may not be less than one (1) standard deviation below the average base salary paid by other school corporations comprising a regional employment market for certificated employees as defined by the state superintendent. By January 15 of each year, the state superintendent shall determine the regional employment markets for the state, the school corporations that comprise each regional

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market, and the average base salaries for each career ladder level in each regional labor market. By February 1 of each year, the state superintendent shall report the determinations to the senate education committee, the house education committee, and the governor, and shall publish the determination for public review.

(d) Except as provided in subsection (e), each teacher shall be placed at one (1) of the following career ladder levels:

(1) **Apprentice teacher.** An apprentice teacher shall receive induction and mentoring and is subject to annual performance reviews resulting from at least three (3) observations per year. An apprentice teacher shall receive a service increment at the end of the teacher's first and second years as an apprentice teacher. Notwithstanding any other law or collective bargaining agreement, an apprentice teacher who fails to meet the requirements for the career teacher level within five (5) years of employment shall be dismissed by the governing body.

(2) **Career teacher.** A career teacher is subject to a performance review at least one (1) time every three (3) years, resulting from no fewer than three (3) observations per year. A career teacher who receives a rating below proficient in any domain under section 7(c)(2) or 8(b)(2) of this chapter shall be evaluated again the following school year. A career teacher may receive no more than six (6) service increments while at the career teacher level, but continues to receive any cost of living increases that are provided for in a collective bargaining agreement.

(3) **Advanced career teacher.** An advanced career teacher is subject to performance reviews at least one (1) time every five (5) years, or may have a performance review every two (2) years.

(4) **Distinguished career teacher.** A distinguished career teacher is subject to performance reviews at least one (1) time every five (5) years, or may have a performance review every two (2) years. The base salary for a distinguished career teacher must be at least the greater of five thousand dollars (\$5,000) or ten percent (10%) more than the salary for the highest service increment for an advanced career teacher.

In placing teachers at levels of the career ladder, school corporations may not artificially limit the number of teachers at any level.

(e) **Certificated employees who are employed by school**

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corporations on June 30, 2007, may opt not to participate in the career ladder system under subsection (d). A certificated employee who does not participate in the career ladder system shall receive service increments under subsection (b), up to a maximum of ten (10) service increments.

(f) A school corporation may propose to use an alternative career ladder system that meets the following criteria:

(1) The alternative career ladder system must have at least three (3) career levels, for apprentice, career, and distinguished teachers, that have at least the criteria set forth for each level under subsection (d).

(2) The alternative career ladder system must incorporate the provisions of subsections (b) and (c).

(3) The alternative career ladder system must be:

(A) negotiated under IC 20-29; and

(B) approved by the department if the alternative career ladder system complies with this subsection.

Sec. 13. (a) The salary of a certificated employee who is moved to a lower level of the career ladder under section 12(d) of this chapter as a result of performance evaluations shall be frozen, except for cost of living adjustments, until the time the certificated employee returns to a higher level of the career ladder.

(b) A certificated employee to whom subsection (a) applies is not entitled to any retroactive salary increases for the period of time spent on the lower level of the career ladder.

Sec. 14. Notwithstanding the career ladder salary schedule provided for in this chapter, if a school corporation determines that certain teaching positions are difficult to fill, the school corporation shall offer differentiated pay or salary bonuses, or both, as incentives to fill the positions. Difficult to fill positions may include identified subject areas or schools identified as having less desirable working environments. The amounts of the salary differentiation or bonuses shall be determined for each school corporation under a collective bargaining agreement between the school corporation and the exclusive representative. Before implementing a differentiated salary or a bonus, a governing body shall notify the exclusive representative.

Sec. 15. (a) School corporations have the right to assign a teacher to a position and school in which the teacher's services are most needed, if the teacher is properly certified for the assignment, without regard to teacher seniority or prior rights of teachers to select teaching assignments.

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(b) This section may not be construed to supersede or to require the renegotiation of any contract in force on July 1, 2007. Any agreement entered into on or after June 30, 2007, must comply with and be limited by this section.

(c) Each school corporation shall establish a joint committee of governing body and exclusive representative members to hear appeals by teachers if a teacher believes a teaching assignment poses a significant hardship. Based upon its findings, the committee may recommend to the governing body that a specific assignment be reconsidered. The governing body shall retain final authority over teaching assignments.

Sec. 16. (a) This section applies only to a school corporation that voluntarily participates in a pilot program conducted by the department under this section.

(b) The department shall develop and conduct a pilot program to determine the feasibility of applying the provisions of this chapter to school corporations in general. The department shall disseminate information concerning the pilot program to governing bodies and request governing bodies to apply to participate in the pilot program.

(c) From the applications received under subsection (b) and to the extent possible, the department shall choose school corporations that:

- (1) are located in different regions of Indiana; and
- (2) serve urban, suburban, and rural populations.

(d) The department shall prepare annual reports concerning the pilot program under this section for the education roundtable established under IC 20-19-4-2 and the state board.

(e) This section expires July 1, 2012.

SECTION 2. IC 20-28-14 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 14. Professional Development and Peer Assistance

Sec. 1. The definitions in IC 20-28-13 apply throughout this chapter.

Sec. 2. (a) As part of a school corporation's professional education plan, each school corporation shall describe the activities planned to induct new certificated employees into the school corporation and a new professional assignment. The induction plan must focus on mentoring and peer assistance for new certificated employees by advanced career teachers or distinguished career teachers.

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(b) Apprentice teachers shall receive mentoring and peer assistance from an advanced career, distinguished career, or career teacher and the building principal for at least two (2) years and not more than three (3) years. Assistance under this subsection must focus on improving the apprentice teacher's classroom instructional skills and be intensive during the first year of employment or until the apprentice teacher achieves a professional practice rating of at least basic. Intensive mentoring shall consist of at least one (1) classroom observation per week of at least one (1) hour's duration followed by both written and oral comments before the next classroom observation. At the conclusion of the mentoring period, the mentor shall submit a detailed report of the apprentice teacher's progress and effectiveness to the principal and the apprentice teacher. The report must be submitted according to standards adopted by the school corporation and included in the school corporation's professional education plan.

(c) An advanced career, distinguished career, or career teacher assigned to mentor an apprentice teacher shall be released from at least fifty percent (50%) of the teacher's teaching duties during any school year in which the advanced career, distinguished career, or career teacher provides mentoring services. The school year shall be counted as one (1) year of teaching for purposes of calculating salaries under IC 20-28-13 and for computing credited service for purposes of calculating retirement benefits. A teacher may not serve as a mentor for more than three (3) consecutive years.

Sec. 3. (a) Each school corporation shall develop a peer assistance and review program to assist teachers whose ratings under IC 20-28-13 indicate a need for intervention.

(b) Each school corporation shall establish a peer assistance and review committee to manage the program under subsection (a). The peer assistance and review committee must consist of at least:

(1) one (1) representative of the governing body, who may be a principal, supervisor, assistant superintendent, or superintendent; and

(2) two (2) of the school corporation's teachers, who must be advanced or distinguished career teachers.

Each school corporation shall determine the size of the school corporation's peer assistance and review committee, but the committee may not exceed eleven (11) members. The superintendent of the school corporation shall select the members described in subdivision (1), and the school corporation's exclusive

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representative shall select the members described in subdivision (2). The number of members selected under subdivision (1) must exceed the number of members selected under subdivision (2) by one (1). All decisions of the committee must be made by a two-thirds (2/3) vote.

(c) The peer assistance and review committee established under subsection (b) shall design the school corporation's peer assistance and review program, select advanced and distinguished career teachers to provide peer assistance, and approve referrals of teachers for peer assistance.

(d) A teacher shall be referred for peer assistance and review if the teacher meets one (1) or more of the following criteria:

(1) The teacher's achievement rating is unsatisfactory for two (2) consecutive rating periods.

(2) The teacher's professional practice rating is unsatisfactory for two (2) consecutive rating periods or, in the case of a career, advanced career, or distinguished career teacher, is basic or unsatisfactory for two (2) consecutive rating periods.

(3) The teacher makes a self-referral in writing.

(e) A teacher approved to receive peer assistance and review shall be assigned an advanced career or distinguished career teacher as a mentor for a period of at least one (1) year. The teachers shall engage in mutual goal setting and planning to design an intensive individualized program that involves coaching, mentoring, regular classroom observation by the mentor, and any other professional development and assistance the referred teacher may need.

(f) While a teacher is receiving peer assistance and review, the teacher is not eligible to receive any compensation increments.

(g) At the conclusion of one (1) year of peer assistance and review, the mentoring teacher shall submit a detailed report of the referred teacher's progress to the principal, the referred teacher, and the peer assistance and review committee. The report must be submitted under standards developed by the peer assistance and review committee. At the conclusion of one (1) year of peer assistance and review, the referred teacher is subject to an evaluation under IC 20-28-13-7 or IC 20-28-13-8. If the report by the mentoring teacher indicates that the referred teacher has met the goals of the peer assistance and review, and if the evaluation indicates that the teacher's performance is at least proficient, the peer assistance and review shall be terminated. If the report indicates the referred teacher is making sufficient progress as

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defined by the committee, but the referred teacher's performance remains below proficient, the referred teacher shall receive a second year of peer assistance and review. If both the report and the evaluation indicate that the referred teacher's performance continues to be unsatisfactory, the teacher shall be dismissed by the governing body, notwithstanding any other provision of law or a collective bargaining agreement.

(h) Notwithstanding any other law or collective bargaining agreement, a referred teacher who fails to achieve an evaluation of proficient or higher after two (2) years of peer assistance and review shall be dismissed by the governing body.

(i) An advanced or distinguished career teacher assigned to the peer assistance and review program shall be released from at least fifty percent (50%) of the teacher's teaching duties during any school year in which the teacher provides peer assistance and review services. The school year shall be counted as one (1) year of teaching for purposes of calculating salaries under IC 20-28-13 and for computing credited service for purposes of calculating retirement benefits. A teacher may not serve in the peer assistance and review program for more than three (3) consecutive years.

(j) The department shall develop a model peer assistance and review program that meets the requirements of this section and that school corporations may adopt instead of developing a local program under subsection (a).

Sec. 4. (a) To promote collaborative professional development among groups of professional educators, a collaborative professional development grant program is established within the department.

(b) Teams of at least five (5) and not more than ten (10) teachers within a school, organized by grade level or content area, may design innovative projects designed to improve student achievement within the teachers' school.

(c) Proposals under subsection (b) must be submitted to the school's principal for approval using forms provided by the department. A proposal must include a detailed budget not to exceed five thousand dollars (\$5,000). If a proposal is approved, the principal shall submit the proposal to the department for review and shall notify the superintendent.

(d) If a principal does not approve a proposal under subsection (b), the teachers who submitted the proposal may appeal to a committee comprised of a district representative appointed by the superintendent of the school corporation, a teacher representative

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1 appointed by the exclusive representative of the school
2 corporation, and an external provider of professional development
3 approved by the department. If the proposal is approved by the
4 committee, the superintendent shall submit the proposal to the
5 department for review.

6 (e) If the department approves a proposal submitted under
7 subsection (a), the department shall pay the school corporation
8 that employees the team of teachers who submitted the proposal a
9 grant of five thousand dollars (\$5,000) for use exclusively by the
10 team of teachers to implement the proposed project.

11 (f) All projects funded under this section shall be evaluated to
12 determine if they are successful by achieving one of the following
13 criteria:

14 (1) Student assessment results for students in the project that
15 are significantly above one (1) year's academic growth.

16 (2) Student assessment results for students in the project
17 averaging at least one (1) year's academic growth and
18 achievement of one (1) or more data driven student
19 achievement goals detailed in the teacher team's proposal.

20 (g) During the school year following documentation of
21 successful implementation of a collaborative professional
22 development project under this section, the department shall pay
23 each member of the teacher team that submitted the proposal for
24 the project three thousand five hundred dollars (\$3,500). This
25 amount shall not be considered part of a teacher's salary for
26 purposes of determining future salaries and for computing
27 compensation for purposes of calculating retirement benefits.

28 SECTION 3. [EFFECTIVE JULY 1, 2007] (a) The provisions of
29 IC 20-28-13 and IC 20-28-14, both as added this act, apply only to
30 a contract or agreement entered into or modified after June 30,
31 2007.

32 (b) Notwithstanding any provision of IC 20-28-13 or
33 IC 20-28-14, both as added by this act, to the contrary, a
34 certificated employee who is employed by a school corporation on
35 June 30, 2007, may not have the certificated employee's salary as
36 of June 30, 2007, reduced by a provision of IC 20-28-13 or
37 IC 20-28-14, both as added by this act.

38 SECTION 4. [EFFECTIVE JULY 1, 2007] (a) As used in this
39 SECTION:

40 (1) "department" refers to the department of education
41 established by IC 20-19-3-1;

42 (2) "state board" refers to the Indiana state board of

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1 education established by IC 20-19-2-2; and

2 (3) "state superintendent" refers to the state superintendent
3 of public instruction.

4 (b) The professional practice rating scale required under
5 IC 20-28-13, as added by this act, and the model peer assistance
6 and review program required under IC 20-28-14-3, as added by
7 this act, shall be developed by the department with the advice of a
8 committee appointed by the state superintendent. Members of the
9 committee must include representatives of the following groups:

10 (1) Public school superintendents.

11 (2) Elementary and secondary school principals.

12 (3) Classroom teachers.

13 (4) Parents of children enrolled in public schools.

14 (5) Departments of education in institutions of higher
15 education.

16 (6) Any other groups the state superintendent considers
17 necessary.

18 (c) Not later than March 1, 2008, the department shall submit
19 the proposed professional practice rating scale and proposed model
20 peer assistance and review program developed under subsection
21 (b) to the state board for the state board's review. The state board
22 may revise either proposal before approval.

23 (d) The department shall make the professional practice rating
24 scale and model peer assistance and review program available to
25 school corporations and the public before July 1, 2008.

26 (e) This SECTION expires July 1, 2008.

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